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# The Impact of Federal Subsidies on State Functions

By JAMES R. RICHARDSON\*

“Must a government of necessity, be too strong for the liberty of its own people, or too weak to maintain its own existence?”

A. Lincoln, Message to Congress, July 4, 1861.

The ensuing discussion can be advantageously oriented by an inquiring look at the topic itself. Perhaps thoughtful inquiry will lead the reader to observe, “what is a subsidy,” and “what are State functions?” The answers to both of these questions are troublesome to reach, since the terms are not susceptible of exact definition. That which is a subsidy to one governmental agency may not be so regarded by another. Likewise, a conflict of interests may result in different interpretations by recipients and non-recipients of Federal largesse. As for State functions, one’s own political philosophy can be expected to influence individual concepts of legitimate State and Federal functions. Hence, under changing social and economic conditions, that which is a State function today may be regarded as a Federal function tomorrow. These changing concepts cause the issue of States’ rights to be interjected, with resultant clamour for aid without Federal strings attached, or for withdrawal of the Federal Government from certain taxing areas. Further, in referring to the impact of Federal subsidies on State functions, it becomes quite apparent that the functioning of the State under Federal grants-in-aid is of much significance. Thus, “State Functions” when analyzed in context give rise to the questions, (1) what are legitimate State functions and are they usurped by Federal subsidy programs, and (2) how do Federal subsidies affect the functional aspects of

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State governments? An attempt will be made to illumine these and related inquiries as the discussion is developed.

*"Subsidies" Identified*

In a broad sense, subsidies refer to governmental grants to individuals, private enterprise, or units of local government for the ultimate public benefit. It is easier to identify a subsidy than to define it, and far more useful. However, attempts within and without the Federal Government have been made to define the term with small success, at least, from a utilitarian standpoint. As an example, the Department of Commerce has defined a subsidy in simple terms as,

the monetary grant provided by government to private business.<sup>1</sup>

Obviously, this definition is too narrow in that it would not include as subsidies such programs as pensions to disabled veterans, forgiveness of taxes to new industry, or deficit spending by the Post Office Department.

The Division of Audits of the General Accounting Office in Washington has defined subsidy as,

financial aid or assistance given by the Federal Government to private individuals or organizations or to non-Federal Governmental entities.<sup>2</sup>

This definition it will be noted is much broader than the first above, in that by the use of the word "assistance" a subsidy is not limited to monetary aid. The definition also reflects the fact that definitions often have a subjective flavor, meaning that this Federal agency thinks of a subsidy as limited to a Federal grant.

Next, a professor of economics has written an essay entitled, "On Defining a Subsidy," in the course of which is stated,

Nearly every government action which impinges on the private economy (and nearly every one does) is likely to have what have been termed subsidy effects. The distinction between a 'subsidy simpliciter' and a 'subsidy effect'

<sup>1</sup> Survey of Current Business. National Income Supplement, 1951 Ed., p. 54.

<sup>2</sup> Division of Audits, General Accounting Office, May 1954.

is essentially political and not economic—it is one of purpose. A subsidy can conveniently be defined in this terminology as an intended subsidy effect, which the legislature (or other policy promulgating agency) foresaw and desired when it authorized the particular activity giving rise to the subsidy effect in question.<sup>3</sup>

Again, we see a definition being influenced by the thinking of a specialist who sees a subject in terms of his particular field of operations. It is natural that the economist thinks of political and economic factors in defining subsidies, as indeed they predominate.

Finally, the Committee on Agriculture of the United States House of Representatives recently stated in a report, in part,

The subsidy is the oldest economic principle written in the laws of the United States . . . and there is no officially recognized definition of a subsidy as such, and no unchallengeable compilation can be made of the costs of subsidies down through the years.<sup>4</sup>

To the fact that subsidies have the undefinable characteristic, may be attributed the difficulty of making a compilation of total costs, rather than faulty bookkeeping. This undefinability, as has been mentioned, is due in some respects to conflicting interests. For example, whether extensive Federal expenditures on highway and street improvement constitute a direct subsidy to the motor carrier industry is a subject of sharp controversy. Railroad company representatives are strong in support of the subsidy claim, despite public aid over the years in excess of one billion dollars to promote railroad construction.<sup>5</sup> On their part, representatives of motor carriers refute the subsidy argument by asserting that taxes on gasoline, registration fees and mileage assessments which go into the construction of public roads, meet all of the costs properly attributable to them.

Price support programs of the Commodity Credit Corporation,

<sup>3</sup> Kaysen, Carl, *On Defining A Subsidy*. Public Policy; a year-book of the Graduate School of Public Administration, Harvard University, vol. 4, 1953, p. 9.

<sup>4</sup> U.S. Congress, House of Representatives, Committee on Agriculture, *Government Subsidy Historical Review*, (83rd. Congress, 2d session, Committee print). June 3, 1954.

<sup>5</sup> U.S. Federal Coordinator of Transportation. *Public Aids to Transportation*, vol. 1, p. 19. The text refers to Federal grants and does not include loans under favorable terms by agencies of the Government lowering of import duties on railroad iron, and grants of right-of-ways over public lands.

whereby farm commodity prices are maintained at levels higher than would prevail in their absence would seem essentially to be direct subsidies to farmers. Yet, many of these programs have resulted in actual net gain to the Government.<sup>6</sup> And, it is also relevant to make inquiry as to the objective of price support programs with respect to the subsidy issue. Are these programs designed primarily as direct financial aid to farmers, or to strengthen the over-all economy of the nation?

It has been said that the grant-in-aid program which unquestionably fitted the definition and characteristics of a subsidy was that of the wartime consumer subsidies, in which the term of subsidy was specifically used, and payments, designated as subsidy payments, were made to producers with certain public objectives in view.<sup>7</sup> However, this is true only if the subsidy effect on the producers outweighs the benefit sought and received through the public objectives. Under this view of a subsidy, the significant inquiry becomes, who is subsidized the most, or who is the subsidy primarily intended to benefit? Food distributed in the national school lunch program, to institutions and to persons in low-income groups, seems on the surface to subsidize the consumers of the food more than it does the producers. Yet, if the distribution is made from surplus commodities, accumulated under a price support program for farmers, the conclusion is inescapable that the initial intent was to subsidize the producers. So, the "intended effect" criterion is helpful in identifying a subsidy and its beneficiary. As to what a subsidy is, the following definition is set out as both comprehensive and useful, subject to the inherent limitations of all definitions,

A subsidy may be defined as an act by the Government involving either, (1) a payment, or (2) remission of charges, or (3) supplying commodities or services at less than cost or market price, whereby benefits to society or a particular segment of society are anticipated.

From the foregoing definition and identification of a Federal subsidy, or grant-in-aid, it may be concluded that a subsidy is something given, forgiven, or released by a governing agency to

<sup>6</sup> Legislative Reference Service Report, Subsidy Payments by the United States Government Since 1940, p. 12.

<sup>7</sup> *Id.*, at 12.

all or a classified portion of the governed, whereby certain benefits, direct or indirect, are expected to inure, through subsidy effect operating on the subsidized, to the ultimate benefit of society as a whole, in order to satisfy the requirement of being a legitimate governmental function.

### *History and Constitutionality*

That governmental activity which is a novel departure from established norms, which receives wide publicity through various news media, or which makes the public increasingly tax conscious, can be expected to undergo critical public scrutiny. This aroused public interest tends to supplant existing public apathy with action. For instance, only when Congressional Committee investigations were subjected to the air waves and television cameras in sensational proportions, did the general public begin to demonstrate any real interest in the power of Congress to investigate. The public was seeing something "new", little knowing or caring that as early as the year 1795 Congress exercised its power to carry on committee investigations and punish for contempt; or that in 1832 the well known historical figure Samuel Houston, was brought before the House of Representatives in contempt proceedings, and was "reprimanded and discharged on payment of fees."<sup>8</sup>

Likewise, increased activity of recent years through Federal subsidies in the interests of national defense and economic stability has aroused intense public interest, with the result that these programs have been condemned as statism, or approved as a new and benevolent philosophy of government, as self-interest dictates. As to the latter view, the contrary, as to newness, is correct. True, the subsidy has, in the past two or three decades, reached into hitherto untouched fields, but, repeating the quote from the House Committee on Agriculture, "the subsidy is the oldest economic principle written in the laws of the United States."

The record shows that in 1789 legislation was passed by the first Congress, which was similar in intent to some of the maritime subsidies of today. The first tariff act, enacted in that year,

<sup>8</sup> 8 Debates, 22nd. Cong., 1st. sess. 2512.

stipulated that goods imported into this country on American vessels should have a ten-percent reduction in custom duties, and, further, a tonnage tax was imposed in favor of American shipping.<sup>9</sup> Actually, various types of direct grants-in-aid to particular business enterprises have been made in the United States for more than a hundred years. These include payments to steamship and railroad companies for carrying mail, financial aid to shipbuilding enterprises, land grants to railroads and canal companies, numerous aids to farmers, and silver purchases by the Government.<sup>10</sup>

The first direct Federal subsidy was the award of mail subsidies to private shipping industries in 1845, with preference to ships convertible to vessels of war.<sup>11</sup> Railroads received direct subsidies in the form of land grants from 1850 to 1871 to aid in new construction. All in all, railroads received Federal and State grants approximating 183,000,000 acres, it having been estimated that total public aid to railroads is in excess of \$1,282,000,000.<sup>12</sup>

Historically, subsidies to private carriers, railroad and shipping, and more recently air and motor, have been justified on grounds of providing employment for individuals and capital, contribution to national defense, and safeguarding American business against discrimination. This is true in general, but too often subsidies have been utilized to enrich the recipient rather than to serve a public purpose.

Constitutionally, the legal basis for subsidies is found in that provision of the Constitution empowering Congress to levy taxes in providing for the common defense and general welfare.<sup>13</sup> This means that Congress acts in self-prescribed areas in determining the "general welfare"; and the cases are legion drawing the thin line of distinction between what is general and what is special or local, under the judicial holdings that Congress must be accorded wide discretion in defining the bounds of general welfare, and the courts may not interfere with congressional action unless it clearly and indubitably appears that the purpose for which a

<sup>9</sup> U.S. Congress, House, Committee on Agriculture, Government Subsidy Historical Review, June 3, 1951, p. 1.

<sup>10</sup> Library of Congress, Legislative Reference Service, Subsidy Payments by the United States Government Since 1940, p. 43.

<sup>11</sup> *Id.* at 44.

<sup>12</sup> *Id.* at 46.

<sup>13</sup> U.S. Const. Art. 1, sec. 8, cl. 1.

tax is to be laid, collected and appropriated, is not within the constitutional limitation.<sup>14</sup>

The history of Federal subsidies, when viewed retrospectively, reveals a progressive pattern of increased Federal activity at local levels. The first Federal grants were made to heavy industry in encouraging and supplementing efforts of an expanding economy. The scope of these grants was later, at the turn of the century, expanded to encompass the promotion of agriculture and mechanical arts in developing the practical and vocational education of a growing population.<sup>15</sup> Next, subsidy programs gained impetus during the economic depression of the thirties, when the Federal Government acted to participate in State and local relief programs on a rescue basis. Thusly, the Federal Government assumed the traditional local jurisdiction of welfare functions, where State agencies would not or could not proceed effectively. This functional area has been gradually broadened and given permanent status through price support, social security, unemployment compensation, and other legislative welfare programs, designed to maintain a stable economy.

This developmental process of Federal subsidies indicates a broader concept of "general welfare" in relation to State functions. However, it is even more significant in that concentration of subsidy effect on the individual, rather than on economic expansion, points to the evolution of a frontier nation-state into an industrialized state, with a shift of population from the land to urban centers; it demonstrates mass psychological reaction where the promise of security dominates the desire for the rewards of risk; it marks a highly complex society in which the adage, "that government is best which governs least" becomes untenable; it foreshadows the march of an organized society from the "haves" to the "have-nots" through over-industrialization, over-population and the exhaustion of resources; and perhaps it implies that no society is capable of self-perpetuation due to unequal distribution of resources, human avarice, and an inability to reconcile conflicting interests of societal classes.

The foregoing suggested impact of federal subsidization may

<sup>14</sup> *Kansas Gas & Electric Co. v. City of Independence, Kansas*, C.C.A. 1935, 79 Fed. 2d 32, 100 A.L.R. 1479.

<sup>15</sup> Land Grant College Act of 1862, Hatch Act of 1887.

appear obscure, and may as yet still lurk beyond the horizon of human affairs, but it is alarmingly real and has been since the inception of recorded history.

### *General Scope and Effect*

In 1932 the Federal budget was less than five billion dollars, in 1942 Federal expenditures were thirty-four billion dollars, in 1952 expenditures were sixty-six billion,<sup>16</sup> and currently, 1957, the proposed budget is just short of seventy-three billion dollars. The ravages of two economically devastating world wars and a great national depression, all experienced within one generation, have caused the costs of government to soar to new heights. These cataclysmic blows at our economic, political and social structures have led to new thinking on legitimate Federal "services";<sup>17</sup> leading in turn to a super-structure in Federal government heretofore unparalleled. To state a parallelism: for better or worse, experience teaches us that the corporate system of doing business has a centripetal attraction which draws wealth together into aggregations of constantly increasing size, at the same time throwing control into the hands of fewer and fewer men. By legitimate comparison, and for better or worse, we see the "business" of Federal Government expanding at the expense of State governments. The Federal Government necessarily functions at an accelerated and expanded rate through the power to tax, as new concepts of "general welfare" become part of governmental policy.

It is not to be denied that the power to tax carries with it the power to control. Hence, we see a central government growing stronger as the state governments become correspondingly weaker, functionally speaking. This was perhaps inevitable under a division of activities between Federal and State governments which is the product of more than a century and a half of piecemeal and haphazard growth at both levels. Just how long this transition is to continue, depends upon the demands and expect-

<sup>16</sup> National Association of Manufacturers, Economic Policy Division Series, Bring Government Back Home, No. 54, Dec. 1952, p. 7.

<sup>17</sup> This clause (Art. I, sec. 8, cl. 1), cannot be construed in a narrow sense, but it must be construed in the light of the fact that it is in the Constitution and must deal with change in conditions.—Carolina Power Co. v. S.C. Public Service Authority, D.C.S.C. 1937, 20 F. Supp. 854.

tations of society in its embarkation upon "the road of no returning."

Ours is a federated system of government under which a union of states was formed, vesting in a central government certain enumerated powers and retaining for themselves all powers not so enumerated and expressly delegated. Under this local-central form of government, proponents of a strong and beneficent central government will argue that government subsidy programs in furtherance of the general welfare constitute an activation of constitutional powers which must not be static if that government is to satisfy the existing objectives of a changing society. On the other hand, opponents will maintain that just as no obligation should be assumed by the community when it can be performed by the individual, so, also, no function which can be exercised locally should be assumed by or delegated to another authority.<sup>18</sup> The theory behind this argument is that the sovereign states federated to delegate functions which only a central government can adequately perform. These functions include national defense and foreign affairs. And secondly, the delegation theory includes a grant of power in the area where the several states could perform the functions but which, if done by the states, would adversely affect the people through lack of desired uniformity. Examples are the postal service, weights and measures, coinage, interstate commerce and bankruptcy. Finally, all powers not expressly delegated and which can be performed locally, are not delegated, by implication or otherwise.

These contrary positions align Federalists against advocates of States' rights, and those who believe in the policy of Federal social legislation, such as subsidies, against those who believe that the Federal taxing power is subverted, when used to rehabilitate an individual or private enterprise. Irrespective of the merits of these positions, it is inescapable that inter-governmental activity through dual agencies is expensive and likely to be inefficient. Just as overlapping of city and county governments is a burdensome duplication to taxpayers, so is State and Federal activity in the social fields duplicative and costly. As a result of this

<sup>18</sup> U.S. Chamber of Commerce, Report of the Committee on Social Legislation, 1954, p. 1.

confusion of functions, state and Federal taxgatherers subject such sources as income, estates, alcohol, tobacco, gasoline, entertainment and payrolls to duplicate taxation. These multiple taxing units, responding to new needs, real or apparent, build a house of cards, pyramided by successive legislation, and financed by increased taxes in previously burdened fields, or by invasion of new taxing areas. This definitely calls for an appraisal of Federal-State relationships in connection with subsidy programs, in order that fiscal and administrative functions may be administered under definite policy statements, and in order that relative national and local interests in the respective programs may be defined.

### *Specific Impact*

A survey has recently been completed by the Commission on Intergovernmental Relations to determine the impact of Federal subsidy programs upon the State, its administrative structure, its economic and fiscal structure, and its political institutions.<sup>19</sup> Since it is quite clear that the several States function under governments of varying centralized strength, and have different economic problems, the survey was conducted in agricultural and industrial States in seven widely separated areas, varying in size, wealth and population.<sup>20</sup> The survey investigated the amount of Federal aid in each State, its allocation to education, employment security, highways and public health and welfare, and from the findings, recommendations as to future activity were made. It may be assumed that the report was objective in that the controversial question of States' rights was not raised.

In Connecticut, the survey-report states that aid is not limited to need, that aid amounts are not justified, that formulas for distribution are wrong, and that such unwarranted speed in social improvement can result in transferring burdens from strong voluntary sources of funds to the tax rolls. As to state political institutions, the survey concludes that reliance on the Federal Government has not been typical of the State, but that aid programs have strengthened Connecticut's functional departments.

<sup>19</sup> Commission on Intergovernmental Relations, *The Administrative and Fiscal Impact of Federal Grants-In-Aid*, June, 1955.

<sup>20</sup> *Id.* Letter of Transmittal. The States surveyed were Connecticut, Kansas, Michigan, Mississippi, South Carolina, Washington and Wyoming.

The conclusion on this point is that aid is a dangerous expedient if used to increase the vitality of a State Government.<sup>21</sup>

In Kansas, little impact was found to have been registered on the State administrative structure, since most of the programs were assigned to existing departments of government; the State's economic and fiscal structure pointed to sound administration; and Kansas' political institutions were not unduly influenced by the programs. The survey disclosed that local officials, not actively connected with administration of the programs, expressed a desire for more State control and less Federal influence.<sup>22</sup>

In Michigan, the report states that the structure of the State government has been insignificantly affected by subsidies, chiefly because of its existing high level of services rendered. As to the State's fiscal structure, grant-in-aid to Michigan constitutes only ten percent of its total revenue and has had little identifiable effect on the budget or revenue structure. Politically, the government of Michigan is described as organizationally complex with considerable fragmentation of executive authority. This factor, coupled with an uneasy political balance, makes difficult the exercise of political leadership. From this basis, the report concludes that Federal grant programs have done little to strengthen the State Government as a political entity. Rather, the divisive political situation has been emphasized by the close professional and functional relationships that have grown up in the grant fields between Federal and State officials.<sup>23</sup>

In Mississippi, the survey finds that the caliber of the State's roads, hospitals, health, welfare, and vocational education services are attributable to Federal aids and standards which have: stimulated efficiency in affairs of government; strengthened the limited authority of the State Government and its Chief Executive; transferred some authority from State to Federal officials, or at least habituated State officials to consult and be guided by Federal officials; aroused no claim of invasion of State functions; and has whetted the appetite of the electorate for increased public service.<sup>24</sup>

<sup>21</sup> Id. Ch. 1. Connecticut.

<sup>22</sup> Id. Ch. 2. Kansas.

<sup>23</sup> Id. Ch. 3. Michigan.

<sup>24</sup> Id. Ch. 4. Mississippi.

In South Carolina, the report states that the bare semblance of unity between State administrative boards has been fractured by Federal aid programs. This leads to new islands of administrative autonomy, and as a result good practices in boards administering Federal aid under Federal standards has not led to good administrative practices in purely State agencies. The main impact on the State's fiscal structure has been to relieve it of tax efforts which it is capable of making.

Politically, the office of Governor is weak in South Carolina due to the large number of elected officials and independent boards and commissions. Federal aid has introduced another competitive element into this loosely knit structure, weakening the office of Governor and strengthening the Legislature, through its ability to lighten the relative tax load in rural communities. Further, the general structure of local government is weakened, rural leadership is strengthened, and federally supported State agencies turn increasingly to the Federal Government for guidance under the relatively weak leadership available to them in a confused complex of State political institutions.<sup>25</sup>

In Washington, the survey states the general reaction among officials is that Federal aid is needed for certain services, but the State would be better served if the Federal Government would relinquish important tax sources and enable the State to finance and control, in greater degree, its own affairs. This can in some degree be traced to a further finding that a stronger allegiance is felt vertically up functional fields, than is felt toward the legislators and the Governor. This leads to the additional survey-observation that "control inevitably follows the granting of funds."<sup>26</sup>

In Wyoming, the survey reports that grants-in-aid have resulted in the establishment of new State Departments of Welfare and Security. There exists in Wyoming a centralized Executive authority which has been strengthened by subsidy programs. Generally, officials and employees do not understand the role of the Federal Government in the determination of policies, standards, and financing of the respective grant programs, and look to State officials on these matters. This means that, while Federal

<sup>25</sup> Id. Ch. 5. South Carolina.

<sup>26</sup> Id. Ch. 6. Washington.

grant programs have an effect on local governments, State and local agencies continue as integral relationships.<sup>27</sup>

The foregoing brief resume of an extensive and comprehensive survey and report leads to the following observations, either sensed or deducible, in reference to the Impact of Federal subsidies on State functions:

1. Federal subsidies invade fields of human welfare which in the past were traditionally reserved to the several states.

2. Federal subsidies have improved the service rendered by state agencies to the people in public health, economic security, education, and highway development.

3. A State agency in administering funds under Federal standards becomes a more efficient governmental agency.

4. Federal aid programs strengthen a well-organized State Government with central control, but cause a shift of power, with a weakening of Executive authority, among loosely-knit semi-autonomous administrative boards and commissions of a State.

5. A grant of funds from one governmental agency to another carries with it control and centralization, but their extent in Federal aid programs is fluid and variable, depending upon the cohesive quality of local State government, and not presently definable with over-all exactitude.

6. This indefinability stems in part from failure to properly correlate Federal aid through proper planning, and in part from local variables.

7. Joint Federal-State administration of Federal subsidies can be a deterrent to Federal usurpation of States' rights under a strong well-organized State Government.

8. There is a vital distinction to be made between the voluntary exercise of a "State function" by the Federal Government and the usurpation of a "power" ordinarily reserved to and exercised by the State, though the distinction between governmental and proprietary functions is illusory.

Thinking along corrective lines, suggested by defective administration revealed by the survey, and to ease objectionable impact, if any, on State functions, these suggestions are made:

<sup>27</sup> Id. Ch. 7. Wyoming.

1. The grant-in-aid is a device for providing joint Federal-State participation in a defined program. As such, it is a development of, and unique to, our constitutional federalism as a system of government.

2. Many considerations govern the utilization of the grant-in-aid in the total governmental process. The most important of these are the necessity of balancing State and Federal interests and the device's utility in accomplishing identified national objectives.

3. The Existing subsidy pattern reveals no clear-cut National pattern with respect to the use of the grant device. Some grant programs become permanent bridges for Federal-State cooperation, but others are designed to accomplish specific short-range objectives.

4. There is need for a positive effort to enlarge the role of State policy formation, planning, and coordinating agencies with respect to all grant programs.

5. More and more do problems of administrative control call for cooperative regulation, and the trend is to fit administrative procedure to problems, rather than force problems to fit a rigid administrative procedure. This call for cooperative regulation indicates a need for more intimate association of Federal and State administrative resources in work on problems overlying the State boundaries and requiring mobilization of resources for effective programing. The result may be a finer balance of power between State and Nation, and a counter-trend from centralization of power in Washington as respects problems regional or local in nature.

#### *Conclusion*

It is a thoughtless mistake to accept as a premise the inherent malevolence of government. The American colonists did not so believe, but, taught in the bitter school of English colonial experience, they well knew that all government was not benevolent. The basic premises from which their political thinking and argument flowed were:

- a. that human flesh is corruptible,
- b. that power corrupts, and
- c. that absolute power corrupts absolutely.

They therefore set about, not to devise that form of government which would be most efficient in the hands of good rulers, but, rather, to fashion that form which would be most cumbersome and inefficient in the hands of bad rulers. This may not have been their declared and conscious motive, but, in effect, such was their objective.

The discrepancies between these objectives are of the utmost importance. For it may well be that the form of government which is most effective in the hands of an absolute dictator, is also the most efficient form of government that can be wielded by a wise and benevolent ruler. On the other hand, a cumbersome set of checks and balances, which has hamstrung some of the noblest efforts of the few truly great statesmen this country has produced, has also contributed mightily to the preservation of our democracy through long periods of bad or mediocre political leadership. To illustrate, except for the years of Lincoln, this country did not have a single president of outstanding stature during the forty-eight year period between the administrations of Jackson and Cleveland, and yet this was a period of sustained national growth and increasing prosperity.

The difference between these two approaches to the problems of government has been much obscured by recent currents in our legal and political thinking, but it remains of fundamental importance. On the European continent, political thought has generally inquired: What form of government is best suited to the highest form of society? Or, what form will best aid a wise and good ruler to rule wisely and well? This has been the approach with which gifted immigrants like Hamilton with his "government by the rich, the well-born, and the able," Schurz with his "government by civil service," and Frankfurter with his gospel of "government by experts," have tried to permeate our political thinking. Foreign observers have with near unanimity criticized our Constitution as a "conspiracy against government," criticized the "hopeless inefficiency" of our governmental processes, and insisted that an executive in America, be he president, governor, or mayor, could institute reform in government only through a combination of foresight, fortitude, and extreme luck. Certain schools of critics have taken the position that inefficiency, stupidity and

corruption can be eliminated from our Government only to the extent that we transfer governmental functions to the executive or administrative agencies of government.

This influence has led some American intellectuals into the hitherto exclusive domain of reactionaries, in ridiculing the legislative branch and demanding centralization of power in the executive.

These criticisms, leveled at inefficient methods in government, bear a measure of truth. But they overlook the fundamental concepts of our inherited political thinking. That is, Americans, generally, are more interested in avoiding the worst government than in achieving the best. And are willing to abide with checks and balances, bicameral legislatures, divided responsibilities, limited authority, and red tape, though possible perfection in government is thereby irretrievably lost.

These concluding statements have been made as an elaboration on a preceding observation in reference to the expense of dual inter-governmental functioning in order to furnish a somewhat philosophical justification. Accepting the developed premise as holding to the view that a degree of inefficiency in a body politic is a necessary burden borne by free men, it follows that we must strive to maintain our tripartite government at State and Federal levels; and continue to seek a rational distinction between State and Federal functions while seeking to properly delineate Federal-State relationships, in administering Federal subsidy programs.